

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 17-1008V
(Not to be published)

MIGUEL LEAL, JR.,

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Filed: February 2, 2021

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Petitioner,

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v.

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

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Respondent.

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Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.

Mollie Danielle Gorney, U.S. Dep't of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On July 26, 2017 Miguel Leal filed a petition seeking compensation under the National Vaccine Injury Compensation Program.² (ECF No. 1). Petitioner alleged that he suffered from a shoulder injury related to vaccine administration (“SIRVA”) as a result of receiving an influenza vaccine administered on September 21, 2016. *Id.* at 2-3. Moreover, Petitioner alleged that he experienced residual effects of this injury for more than six months.

¹ Although not formally designated for publication, this Decision will be posted on the United States Court of Federal Claims website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published Decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public in its current form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Respondent denies that Petitioner suffered a SIRVA table injury. (ECF No. 26). Petitioner submitted two expert reports in support of his claim and Respondent submitted one expert report. (ECF Nos. 14, 24, 37-1). Attempts to settle the case failed, so an entitlement hearing was held on September 22, 2020. The parties thereafter agreed to re-engage in settlement negotiations.

On February 2, 2021, the parties filed a stipulation maintaining their positions but agreeing that the issues before them can be settled, and that a decision should be entered awarding Petitioner compensation. (ECF No. 68). I have reviewed the file, and based upon that review, I conclude that the parties' stipulation (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The stipulation awards:

- A lump sum payment of \$50,000.00, in the form of a check payable to Petitioner Miguel Leal. This amount represents compensation for all elements of compensation under Vaccine Act Section 15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court is directed to enter judgment herewith.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.